



**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

Tentative Notice of Action

*Promoting the wise use of land
Helping build great communities*

MEETING DATE July 21, 2006 EFFECTIVE DATE August 5, 2006	CONTACT/PHONE Michael Conger (805) 781-5136	APPLICANT John and Luana Herlihy and Kacey Angle	FILE NO. DRC2005-00149
SUBJECT Request by John and Luana Herlihy and Kacey Angle for a Minor Use Permit to modify the size and distance limitations for a secondary unit. The proposed project would allow the existing 924 square-foot mobile home to be designated as a secondary unit, where ordinance standards would limit the size to 800 square feet. The mobile home is located approximately 210 feet from the primary dwelling (under construction), where ordinance standards would limit the distance to 50 feet. This project will also authorize modification of the 800 square foot limitation and the 50 foot distance limitation to allow a future secondary residence of 1,200 square feet to replace the existing mobile home, and to be located approximately 210 feet from the primary residence. The proposed project is within the Residential Rural land use category and is located at 390 Distant Oaks Drive, adjacent to Lyn Road, and approximately 0.4 miles south of the village of Los Berros. The site is in the South County planning area.			
RECOMMENDED ACTION Approve Minor Use Permit DRC2005-00149 based on the findings listed in Exhibit A and the conditions listed in Exhibit B			
ENVIRONMENTAL DETERMINATION A Class 1 and 3 Categorical Exemption was issued on June 22, 2006			
LAND USE CATEGORY Residential Rural	COMBINING DESIGNATION None	ASSESSOR PARCEL NUMBER 091-011-075	SUPERVISOR DISTRICT(S) 4
PLANNING AREA STANDARDS: None Applicable <i>Does the project meet applicable Planning Area Standards:</i> Not applicable			
LAND USE ORDINANCE STANDARDS: Height Measurement; Minimum Site Area; Residential Density; Setbacks; Secondary Dwellings <i>Does the project conform to the Land Use Ordinance Standards:</i> Yes - see discussion			
FINAL ACTION This tentative decision will become final action on the project, effective on the 15 th day following the administrative hearing, or on August 5, 2006, if no hearing was requested unless this decision is changed as a result of information obtained at the hearing or is appealed.			
EXISTING USES: Residential (existing mobile home, new single family dwelling under construction)			
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Residential Rural / scattered residences <i>South:</i> Residential Rural / scattered residences <i>East:</i> Residential Rural / scattered residences <i>West:</i> Residential Rural / scattered residences			
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: South County Advisory Council, Public Works, Cal Trans, Regional Water Quality Control Board, City of Arroyo Grande			
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER ♦ SAN LUIS OBISPO ♦ CALIFORNIA 93408 ♦ (805) 781-5600 ♦ FAX: (805) 781-1242			

TOPOGRAPHY: Level to gently sloping	VEGETATION: Pines, eucalyptus, ornamentals
PROPOSED SERVICES: Water supply: Shared well Sewage Disposal: Individual septic system Fire Protection: CDF/County Fire	ACCEPTANCE DATE: June 16, 2006

DISCUSSION

PROJECT DESCRIPTION

A building permit for the installation of a mobile home was finalized in October 1983. Since that time, a Parcel Map was recorded placing that mobile home on its own parcel. In February 2006, a building permit was issued for the construction of a new primary dwelling. This Minor Use Permit will serve to authorize the existing mobile home to remain on site as a secondary dwelling unit. The applicants have also provided plans for a future secondary dwelling to replace the existing mobile home, which would also require modification of size and distance standards. Both the mobile home and the replacement secondary would be authorized under this Minor Use Permit.

LAND USE ORDINANCE COMPLIANCE

Permitted Use, Residential Density – Secondary Dwellings are an allowable use in the Residential Rural (RR) land use category, subject to the special use conditions described in the “Secondary Dwellings” section of this report.

Property Development Standards – The following table summarizes the applicable general property development and operating standards described in Chapter 10 of the Land Use Ordinance:

Existing Mobile Home

<u>Standards</u>	<u>Description</u>	<u>Required</u>	<u>Proposed</u>	<u>Status</u>
Height	Residential Rural	35 feet	≈ 15 feet	Meets Standard
Site Area	Single Family Residential (Shared Well, Septic)	1 net acre	≈ 4.5 net acres	Meets Standard
Front	Standard Requirement	25 feet	85 feet	Meets Standard
Rear	sites 1 acre or more	30 feet	180 feet	Meets Standard
Side	sites 1 acre or more	30 feet	100 feet (west) 400+ feet (east)	Meets Standard
Interior	Accessory Building	6 feet	≈ 210 feet	Meets Standard

Proposed Replacement Unit

<u>Standards</u>	<u>Description</u>	<u>Required</u>	<u>Proposed</u>	<u>Status</u>
Height	Residential Rural	35 feet	≈ 19 feet	Meets Standard
Site Area	Single Family Residential (Shared Well, Septic)	1 net acre	≈ 4.5 net acres	Meets Standard
Front	Standard Requirement	25 feet	> 50 feet	Meets Standard
Rear	sites 1 acre or more	30 feet	> 145 feet	Meets Standard
Side	sites 1 acre or more	30 feet	>74 feet (west) ≈ 400+ feet (east)	Meets Standard
Interior	Accessory Building	6 feet	≈ 210 feet	Meets Standard

As proposed and conditioned, the project meets the property development standards of the Land Use Ordinance.

Secondary Dwellings – The following standards apply to secondary residential dwellings:

Accessory Unit Only – A secondary unit shall be accessory to a primary dwelling and shall not be established on a site containing a guesthouse or more than one dwelling unit. *As proposed and conditioned, the project meets this standard.*

Restricted Occupancy – The owner of the site shall agree to occupy one unit on the site as his or her primary residence. Prior to final building inspection, the applicant shall record a notice against the property notifying any subsequent purchaser of this requirement. *As proposed and conditioned, the project meets this standard.*

Limitation on Location – *The proposed secondary dwelling unit is located in the rural portion of the South County planning area, which is not a specified area where secondary dwellings are prohibited.*

Minimum Access – *The project site has frontage on a county-maintained road, Lyn Road.*

Minimum Site Area – The minimum site area for parcels served by a shared well and sewage disposal systems is 1 net acre. *The proposed project site is approximately 4.5 net acres.*

Maximum Floor Area – The maximum floor area for sites under 5 net acres served by a shared well and on-site sewage disposal systems is 800 square feet. *The applicant has requested modification of this standard to allow a secondary unit of 924 square feet, and a future replacement secondary unit of 1,200 square feet. The request is discussed in more detail in the “Size Waiver Request” section of this report.*

Maximum Distance – The Land Use Ordinance limits the distance between the primary and secondary units to 50 feet for sites under 5 net acres served by a shared well and on-site sewage disposal systems. *The applicant has requested modification of this standard to allow the secondary mobile home and the future replacement secondary to be located approximately 210 feet from the primary dwelling. The request is discussed in further detail in the “Distance Waiver Request” section of this report.*

Design – The secondary unit shall use the same design style as the primary unit. *The existing mobile home will require a modification of this standard, as discussed in the “Design Waiver Request” section. The proposed replacement secondary unit, however, will comply with this standard. As proposed, the project meets this standard.*

Parking – One additional off-street parking space shall be provided. *The project site has sufficient area for off-street parking to accommodate this requirement.*

STAFF COMMENTS:

Size Waiver Request

The applicant has requested that the 800 square-foot size restriction for the secondary unit be modified to allow a unit of 924 square feet, and a future replacement unit of 1,200 square feet. The additional square footage needed for the existing mobile home to be designated as a secondary unit would not necessitate any additional ground disturbance. The proposed replacement unit would be located on the same site as the existing mobile home. By locating the new dwelling unit here, ground disturbance would only be needed to accommodate an additional 276 square feet of living space. The area where the building site is located does not contain significant native vegetation, and the additional ground disturbance would not be expected to have a substantial negative impact on drainage.

Distance Waiver Request

The applicant has requested that the 50 foot distance limitation between the secondary and primary dwellings be modified to allow a separation of approximately 210 feet. Both the existing mobile home and the proposed replacement secondary unit will be located approximately 210 feet from the primary unit. Staff has visited the site and determined that location of future development on the site of the existing mobile home will be favorable, as it will locate development in an area that has been previously disturbed. Location of development on this site is not anticipated to necessitate removal of significant native vegetation or to negatively impact drainage.

Design Waiver Request

The existing mobile home on the site is not expected to incorporate the design features proposed with the primary dwelling currently under construction. Based on a site visit, staff has determined that the existing mobile home is effectively screened from public view along Lyn Road by existing vegetation. Staff feels that the vegetative screening is sufficient to address the intent of the design standard, and that the design modification is supportable. The proposed replacement secondary unit will use a similar design as the primary unit and will therefore not necessitate a design waiver.

POLICY ISSUES:

Staff has historically viewed secondary dwellings as a means to provide lower-cost housing for family members or as rental units. When considering size waiver requests, staff conducts a site visit to evaluate any obvious environmental concerns with regard to vegetation removal and drainage. The proposed project will be located in an existing building on the site. Granting of the size, distance, and design waiver will result in less ground disturbance than would be required with a new secondary unit meeting the standard limitations. With regard to drainage, this project was referred to Public Works for review. They did not indicate any significant concerns.

COMMUNITY ADVISORY GROUP COMMENTS:

This project was reviewed at South County Advisory Committee's (SCAC) meeting on March 27, 2006. The project was recommended for approval because the project site is nearly 5 net acres, which would have allowed the proposed size, distance, and design without necessitating modification of the standards.

AGENCY REVIEW:

Public Works – No comment

City of Arroyo Grande – No comment

Cal Trans – As of June 14, 2006, no response has been received.

RWQCB – As of June 14, 2006, no response has been received.

Building – Requests a percolation test with building permit.

LEGAL LOT STATUS:

The one existing lot was legally created by a recorded map (CO02-0106), recorded in Book 63, Pages 13-16 of Parcel Maps.

EXHIBIT A - FINDINGS

CEQA Exemption

- A. The project qualifies for a Categorical Exemption (Class 1 and 3) pursuant to CEQA Guidelines Section 15301 and 15303 because the project involves an existing structure, and the construction of a 1,200 square foot secondary dwelling in a residential zone.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 22 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the secondary unit does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the secondary unit is similar to, and will not conflict with, the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Lyn Road, a local road constructed to a level able to handle any additional traffic associated with the project.

Secondary Dwelling Adjustments

- G. Modification of the maximum floor area for secondary dwellings from 800 square feet to allow a secondary dwelling of 924 square feet and a future replacement secondary dwelling of 1,200 square feet is justified because there are specific conditions of the site that make the standard unnecessary. These conditions consist of the presence of an existing building on the site which will be designated as the secondary unit, and location of future secondary unit on the site of the existing mobile home, which will minimize required ground disturbance.
- H. Modification of the distance a secondary dwelling can be located from a primary dwelling from 50 feet to allow a secondary dwelling to be located 210 feet from the primary dwelling is justified because there are specific conditions of the site that make the standard unnecessary. These conditions consist of the presence of an existing building on the site which will be designated as the secondary unit, and location of future secondary unit on the site of the existing mobile home, which will minimize ground disturbance.

- I. Waiver of the requirement to have the secondary dwelling use the same design style as the primary dwelling is justified because the existing mobile home on the site is effectively screened from public view by existing vegetation along the Lyn Road frontage of the subject property. The future replacement secondary dwelling will meet the design standard.

EXHIBIT B - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes
 - a. modification of the 800 square foot size limitation and the 50 foot distance limitation for secondary dwellings to allow the existing 924 square foot mobile to be designated as a secondary dwelling and located approximately 210 feet from the primary dwelling unit.
 - b. modification of the 800 square foot size limitation and the 50 foot distance limitation for secondary dwellings to allow a future 1,200 square foot secondary dwelling to replace the existing 924 square foot mobile home and to be located approximately 210 feet from the primary dwelling, on the site of the existing mobile home.
 - c. maximum height is 19 feet from average natural grade.

Conditions required to be completed prior to occupancy or occupancy or final building inspection for PMT2005-01373 (building permit for the primary dwelling)

Owner Occupancy Requirement

2. **Prior to occupancy or final building inspection for PMT2005-01373 (building permit for the primary dwelling)**, if the mobile home has not been removed from the site, the applicant for the second unit shall record a notice against the property notifying any subsequent purchaser that failure to meet this requirement will subject the second unit to abatement by the county pursuant to Chapter 22.74 of this title. No secondary dwelling shall be allowed on the site unless an owner of the site agrees to occupy one unit on the site as his or her primary residence.

Conditions required to be completed at the time of application for construction permits for the proposed replacement secondary dwelling

Site Development

3. **At the time of application for construction permits** for the proposed replacement secondary dwelling, plans submitted shall show all development consistent with the approved site plan, floor plan, and architectural elevations.
4. **At the time of application for construction permits** for the proposed replacement secondary dwelling, the room designated as "outdoor room" shall not be proposed as conditioned or habitable space on the building plans.

Fire Safety

5. **At the time of application for construction permits** for the proposed replacement secondary dwelling, the applicant shall provide a Fire Safety Plan prepared by CDF/County Fire. The fire safety plan should include any necessary fire safety measures required for the side setback adjustments pursuant to Sections 22.10.140(E)(1)(a) and 22.54.020(F). All plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Requirements shall include, but not be limited to those outlined in the Fire Safety Plan.

Conditions to be completed prior to issuance of construction permits for the proposed replacement secondary dwelling

Fees

7. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.

Owner Occupancy Requirement

8. **Prior to issuance of a construction permit**, if a notice has not already been recorded to satisfy Condition 2, the applicant for the second unit shall record a notice against the property notifying any subsequent purchaser that failure to meet this requirement will subject the second unit to abatement by the county pursuant to Chapter 22.74 of this title. No secondary dwelling shall be allowed on the site unless an owner of the site agrees to occupy one unit on the site as his or her primary residence.

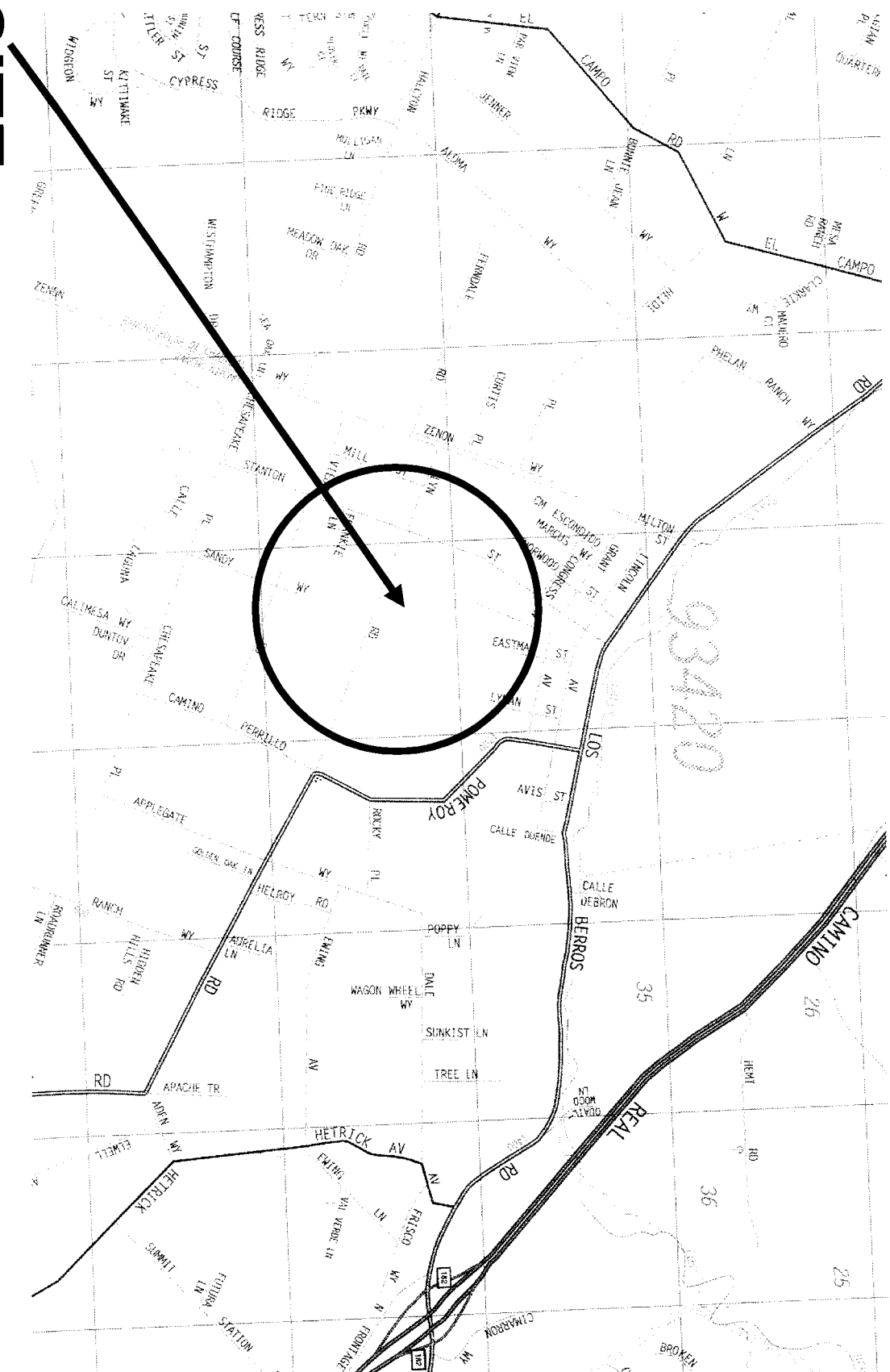
Conditions to be completed prior to occupancy or final building inspection for the replacement secondary dwelling unit

9. **Prior to occupancy or final inspection**, which ever occurs first, the applicant shall obtain final inspection and approval from CDF of all required fire/life safety measures.

On-going conditions of approval (valid for the life of the project)

10. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 22.64.070 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
11. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 22.74.160 of the Land Use Ordinance.

SITE



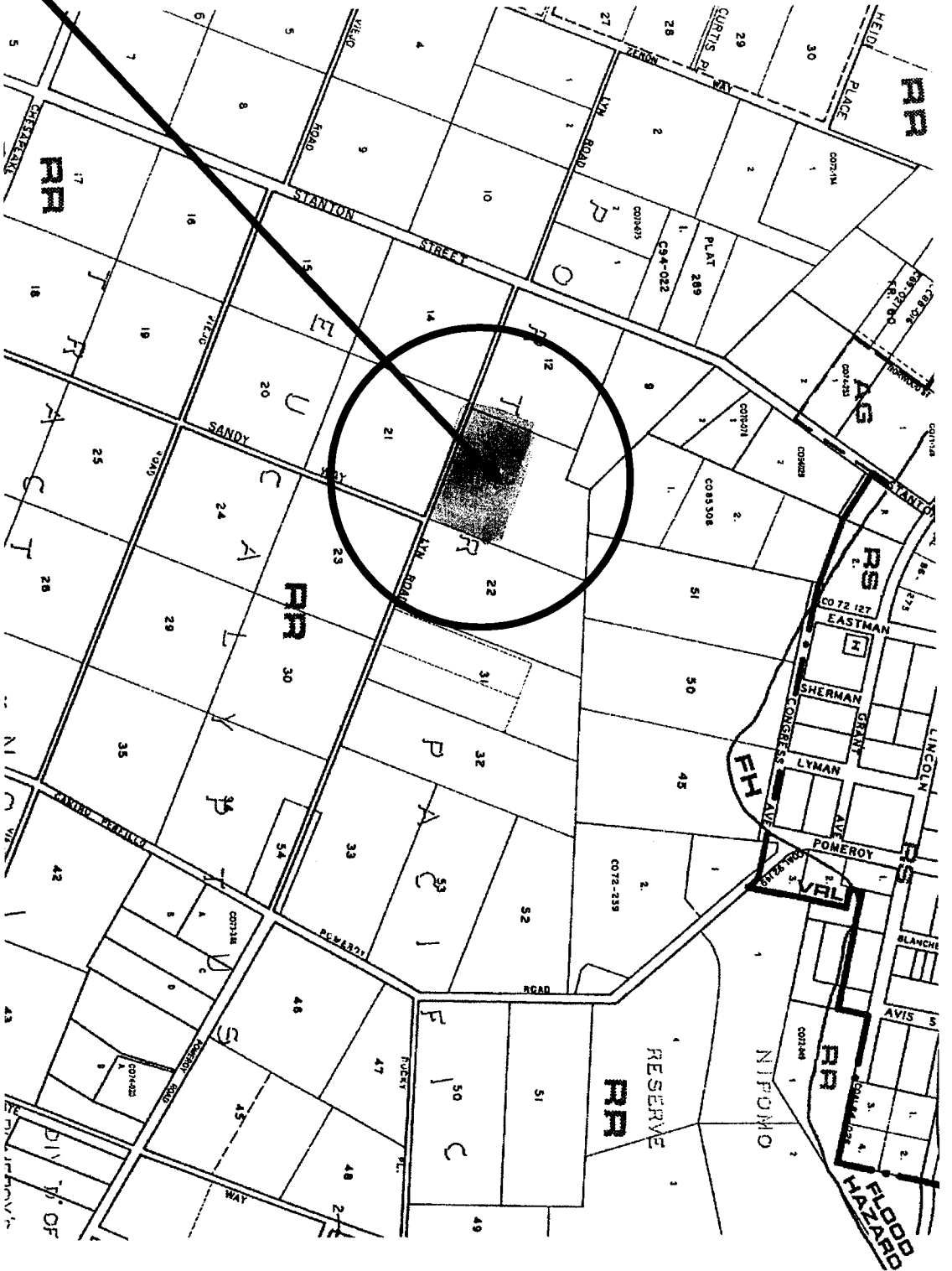
PROJECT

Minor Use Permit
Herlity DRC2005-00149



EXHIBIT

Vicinity Map



SITE

PROJECT

Minor Use Permit
Herlity DRC2005-00149



EXHIBIT

Land Use Category



SITE

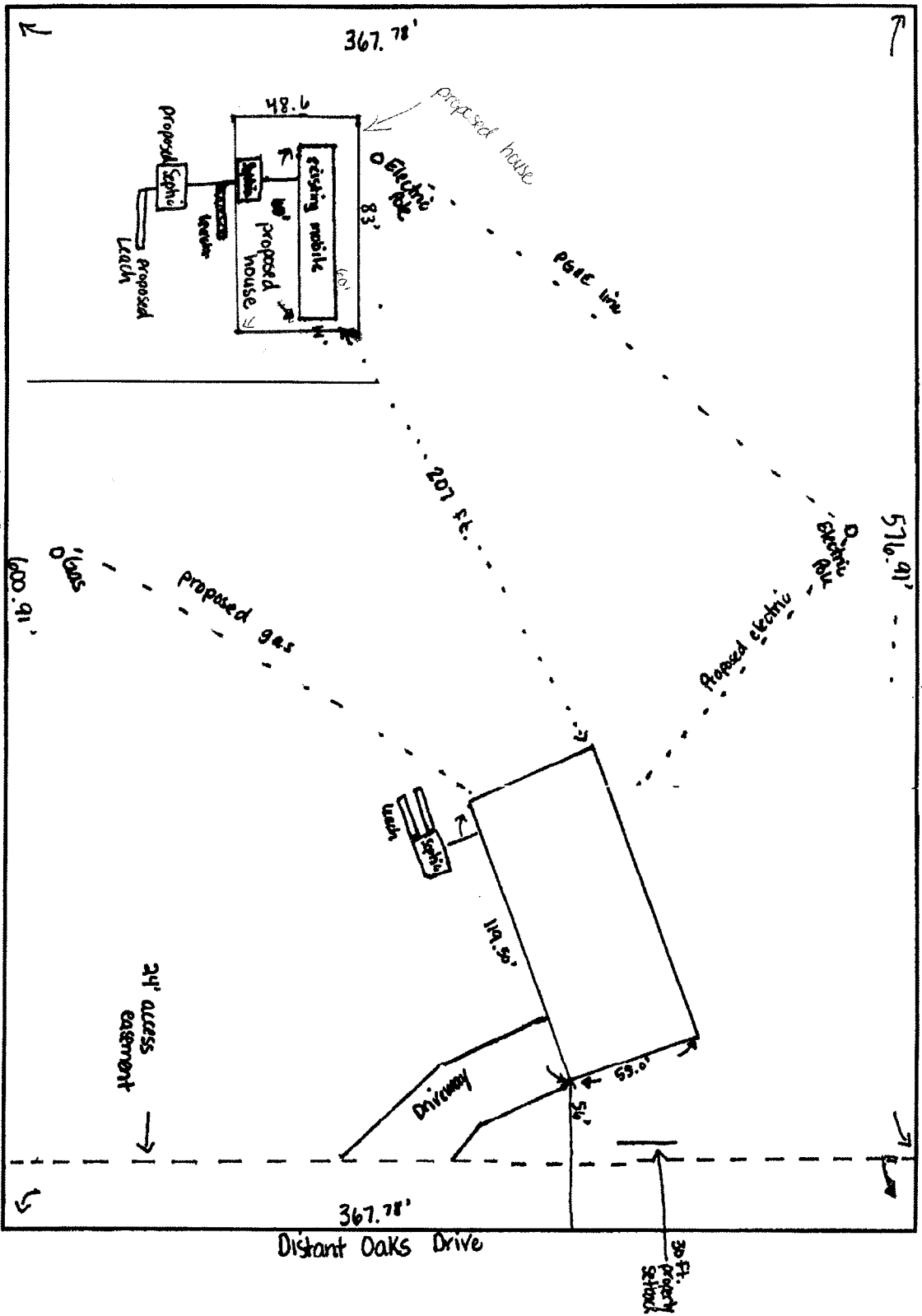
PROJECT

Minor Use Permit
Herlihy DRC2005-00149



EXHIBIT

Aerial



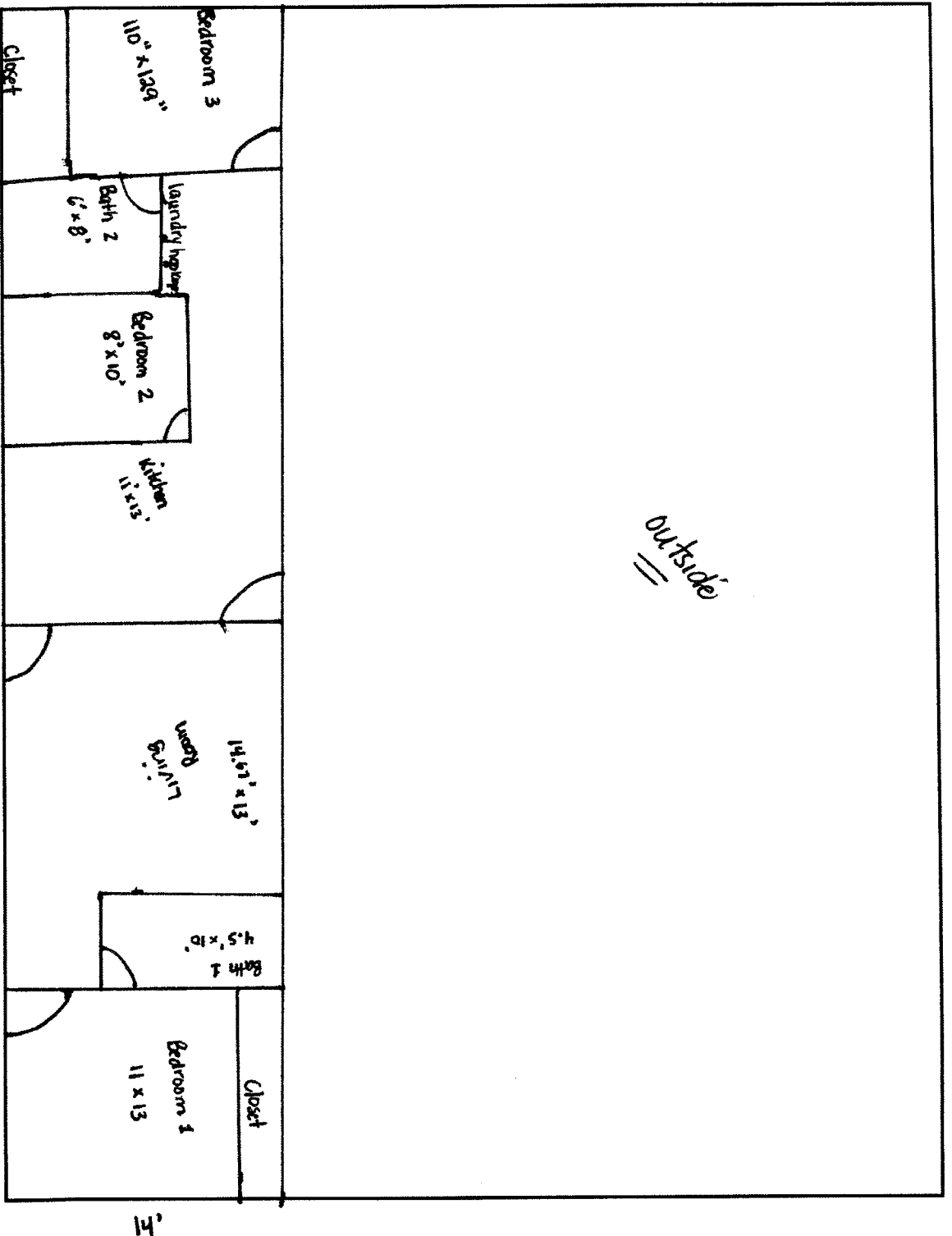
PROJECT

Minor Use Permit
Herlihy DRC2005-00149



EXHIBIT

Site Plan



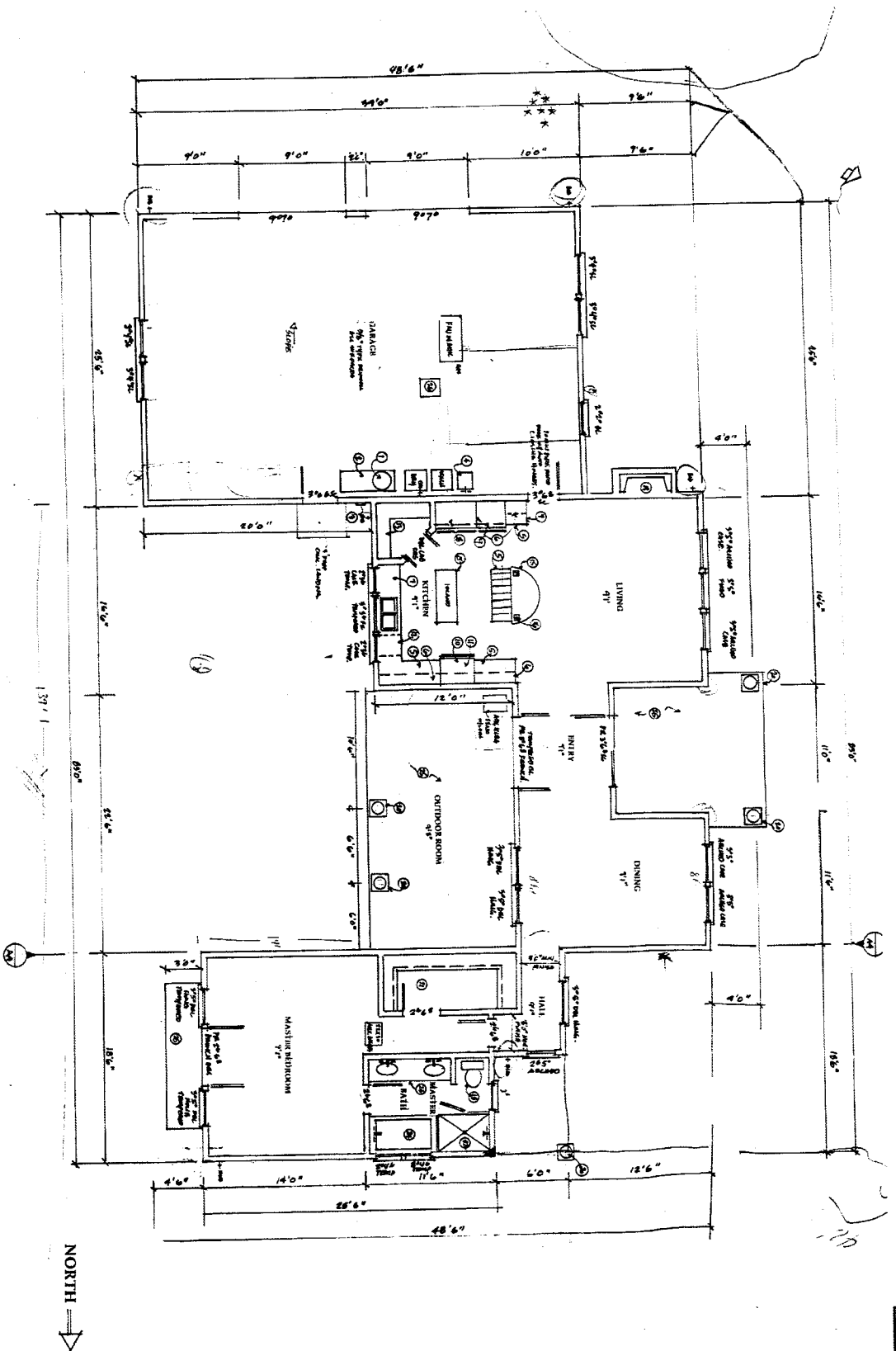
PROJECT

Minor Use Permit
Herlily DRC2005-00149



EXHIBIT

Existing Secondary Dwelling Floor Plan



FLOOR PLAN

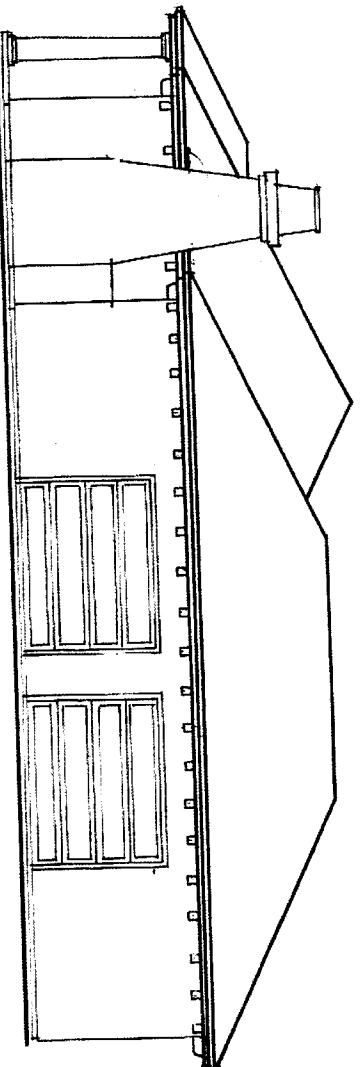
PROJECT

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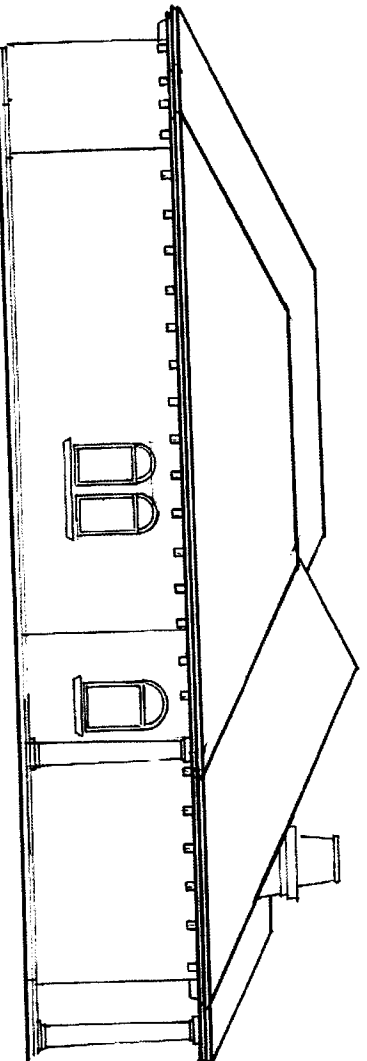
EXHIBIT

Floor Plan





SOUTH ELEVATION



NORTH ELEVATION

PROJECT

Minor Use Permit
Herilby DRC2005-00149



EXHIBIT

Elevation



SOUTH COUNTY ADVISORY COUNCIL

PO Box 1165 Nipomo, CA 93444-1165

March 29, 2006


Office of the Board of Supervisors
Attn: Katcho Achadjian, Board of Supervisors
County Government Center
San Luis Obispo, California 93408-2040

Re: SCAC Recommendations from March 27, 2006 SCAC meeting

Gentlemen:

The preliminary minutes from the March 27, 2006 SCAC meeting can be found at:
<http://scac.ca.gov/m/scacm2006-3-27.pdf>

A summary of the recommendations by the council is found below:



Planning ID	Project Name	Motion
CO 01-0351/ SUB 2005-	VILLAGE AT NIPOMO	SCAC supports the project as presented and we especially like the low profile one-story buildings, landscaping with the recommendation that Tanis Pl. be a wide landscaped walkway (paseo).
DRC 2005-00149	HERLIHY	Allow secondary unit proposed by applicant even though distance and size are not in compliance with LUO because parcel is nominally 5 acres, if not exactly.
DRC 2005-00071	COFFMAN	Deny request, because it continues to be non-conforming, and there is not enough evidence to support that the structure is built to residential code or that area limitation will be enforced.
DRC2005-00160	ABATA	Recommend approval as proposed.
lrp2004-00017	GPA TO THE LUO referring to the TDC program	Oppose GPA that could have the effect of increasing density in a program the SCAC has gone on record as opposing.

Respectfully submitted,

Ed Eby



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

THIS IS A NEW PROJECT REFERRAL

DATE: 2-7-06

FEB - 7 2006

From PW dym
To

FROM: ☒ - South County Team

☐ - North County Team

☐ - Coastal Team

PROJECT DESCRIPTION: File Number: DRC 2005-00149 Applicant: Herlihy
MUP -> size and distance waiver for 3,578 sq. ft.
SFD on 5.07 acres, off Distant Oaks in Arroyo Grande.
APN: 091-011-075.

Return this letter with your comments attached no later than: 2-22-06

PART I - IS THE ATTACHED INFORMATION ADEQUATE TO COMPLETE YOUR REVIEW?

☒ YES
☐ NO

(Please go on to PART II.)

(Call me ASAP to discuss what else you need. We have only 30 days in which we must accept the project as complete or request additional information.)

PART II - ARE THERE SIGNIFICANT CONCERNS, PROBLEMS OR IMPACTS IN YOUR AREA OF REVIEW?

☐ YES

(Please describe impacts, along with recommended mitigation measures to reduce the impacts to less-than-significant levels, and attach to this letter)

☒ NO

(Please go on to PART III)

PART III - INDICATE YOUR RECOMMENDATION FOR FINAL ACTION.

Please attach any conditions of approval you recommend to be incorporated into the project's approval, or state reasons for recommending denial.

IF YOU HAVE "NO COMMENT," PLEASE SO INDICATE, OR CALL.

NO Comment

Date MAR 13-2006

Name DAN MANION

Phone 781-5275

COUNTY GOVERNMENT CENTER

SAN LUIS OBISPO

CALIFORNIA 93408

(805) 781-5600

EMAIL: planning@co.slo.ca.us

FAX: (805) 781-1242

WEBSITE: <http://www.sloplanning.org>



SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

THIS IS A NEW PROJECT REFERRAL

DATE: 2-7-06

TO: City of A.G.

FROM: ☒ - South County Team

☐ - North County Team

☐ - Coastal Team

RECEIVED
FEB 28 2006

CITY OF SAN LUIS OBISPO
COMMUNITY DEVELOPMENT

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No Comment

Feb 8, 2006
Date

Rob Strong Comm. Dir. Din
Name City of Arroyo Grande

4735420
Phone

COUNTY GOVERNMENT CENTER

SAN LUIS OBISPO

CALIFORNIA 93408

(805) 781-5600

EMAIL: planning@co.slo.ca.us

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WEBSITE: <http://www.sloplanning.org>



8

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

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TO: Bldg.

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IF YOU HAVE "NO COMMENT," PLEASE SO INDICATE, OR CALL.

1. Provide Percolation test for Proposed Site

2/8/06
Date

Bary John
Name

781-5628
Phone